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Preparatory Committee for the 2020 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons

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The inalienable right to develop research, production and use of nuclear energy for peaceful purposes

Working paper submitted by the Islamic Republic of Iran

1. To use science and technology for peaceful purposes, in particular nuclear science and technology, is an inalienable right of any State, inherent to its sovereignty. Given the continuous increase in the weight of nuclear energy as a clean, viable and environment- and climate-friendly source in the energy mix of countries, its broad and ever-growing applications and its prominent place in the sustainable socioeconomic development of societies, ensuring the full realization of this inherent right in all its aspects, in particular for developing States, is of utmost importance.

2. The Treaty on the Non-Proliferation of Nuclear Weapons, in its article IV, ensures that nothing shall affect "the inalienable right of all the parties to the Treaty to develop research, production and use of nuclear energy for peaceful purposes without discrimination". It also provides for an undertaking by all the parties to the Treaty "to facilitate, and have the right to participate in, the fullest possible exchange of equipment, materials and scientific and technological information for the peaceful uses of nuclear energy".

3. Article III of the Treaty, while providing that each non-nuclear-weapon State party to the Treaty conclude a safeguards agreement with the International Atomic Energy Agency (IAEA), is equally explicit in articulating that the implementation of such safeguards shall be "in a manner designed to comply with article IV of [the] Treaty, and to avoid hampering the economic or technological development of the parties or international cooperation in the field of peaceful nuclear activities, including the international exchange of nuclear material and equipment for the processing, use or production of nuclear material for peaceful purposes in accordance with the provisions of [the] article and the principle of safeguarding set forth in the preamble of the Treaty."

4. This notion was duly noted in the Review Conferences of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons, particularly in the Final

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Document of the 2000 Review Conference (NPT/CONF.2000/28 (Parts I and II)), when considering that the strengthening of the IAEA safeguards should not adversely affect the resources available for technical assistance and cooperation. It was further maintained that, in allocating resources, the Agency's statutory functions, including that of encouraging and assisting the development and practical application of atomic energy for peaceful uses with adequate technology transfer, should be taken into account.

5. Given the importance of the peaceful applications of nuclear energy and nuclear technology for electricity generation, human health, medicine, industry, agriculture, environmental protection and sustainable development, especially in developing countries, the IAEA statute recognizes the Agency's role in encouraging and assisting "research on, and development and practical application of, atomic energy for peaceful uses throughout the world" and fostering "the exchange of scientific and technical information on peaceful uses of atomic energy" (article III (A)).

6. However, the fundamental role of IAEA in promoting nuclear energy for peaceful purposes has been increasingly undermined by insufficient resources and restrictions imposed by some States on the Agency. Since the establishment of IAEA, developing countries have continually expressed serious concerns about the policy for funding technical cooperation based on voluntary contributions, as they are unpredictable, unsecured and subject to the political motivations of the donors. Safeguards activities are, however, funded from the regular budget. Such a discriminatory policy with respect to two pillars of the IAEA statute and the Treaty must be abandoned. To redress this situation, in actions 53 and 54 of the conclusions and recommendations for follow-on actions of the 2010 Review Conference, the States parties were called upon to strengthen the IAEA technical cooperation programme in assisting developing States parties and by taking practical steps to ensure that IAEA resources in this area are sufficient, assured and predictable (see NPT/CONF.2010/50 (Vol. I)).

7. Moreover, measures taken by States parties to prevent the proliferation of nuclear weapons should facilitate the exercise of the inherent rights of developing States parties to the Treaty to peaceful uses of nuclear energy, instead of hampering their efforts. Nevertheless, it is a source of deep concern that certain States impose such restrictions as a cover to advance their foreign policy objectives. Such acts are in clear violation of the obligations under article IV of the Treaty and challenge its integrity and credibility, and they must therefore be avoided.

8. Consistent with action 51 of the conclusions and recommendations for follow-on actions of the 2010 Review Conference, restrictions on the transfer of nuclear materials, equipment and technology for the peaceful uses of nuclear energy should be swiftly removed. Bilateral and multilateral cooperation among States parties to the Treaty under IAEA supervision on the peaceful uses of nuclear energy should never be restricted or confined, whether by other States or by ad hoc export control regimes. The application of unilaterally enforced export control regimes, in contravention of the letter and spirit of the Treaty, has hampered access by developing countries to nuclear materials, equipment and technology for peaceful purposes. It is essential to note that, in the IAEA statute and in the Treaty, as well as in the comprehensive safeguards agreements and even in the most intrusive but

voluntary instrument, the additional protocol to the comprehensive safeguards agreements, there is no provision to prohibit or restrict enrichment and reprocessing activities. It should also be underlined that the function of the Agency is merely to verify the fulfilment of safeguards obligations of States parties under the Treaty.

9. In the same vein, decisions such as that of the Nuclear Suppliers Group to allow nuclear cooperation between its members and a non-party to the Treaty constitute a clear breach of the obligations under article III (2) of the Treaty for States parties to undertake not to provide equipment or material for peaceful purposes "unless the source or special fissionable material shall be subject to the safeguards required" under the Treaty. Given the fact that the implementation of such a decision would indirectly help the non-party State concerned to develop more nuclear weapons, it is also a clear violation of the obligations under article I of the Treaty.

10. In addition, such decisions run counter to the principles outlined in paragraph 12 of decision 2 of the 1995 Review and Extension Conference (see NPT/CONF.1995/32 (Part. I), annex) and reaffirmed in paragraph 36 of the Final Document of the 2000 Review Conference, according to which acceptance of the Agency's full-scope safeguards and internationally legally binding commitments not to acquire nuclear weapons or other nuclear explosive devices is a necessary precondition for the transfer of nuclear material or equipment. The above-mentioned decision adversely affects the prospects for achieving the universality of the Treaty by sending the wrong message that non-parties to the Treaty enjoy more privileges than non-nuclear-weapon State parties to the Treaty. Moreover, the decision is another manifestation of double standards and discrimination in implementing the provisions of the Treaty, something that needs to be addressed by the 2020 Review Conference.

11. Measures need to be taken to ensure that the inalienable rights of all States parties to develop research, production and use of nuclear energy for peaceful purposes without discrimination are fully protected. No State party should be limited in exercising its rights under the Treaty based on allegations of non-compliance. The inalienable rights of the States parties cover all aspects of peaceful technology and are not limited to specific areas. In this regard, it was reiterated in the Final Documents of the 2000 and 2010 Review Conferences that each country's choices and decisions in the field of the peaceful uses of nuclear energy should be respected without jeopardizing its policies or international cooperation agreements and arrangements for the peaceful uses of nuclear energy and its fuel-cycle policies.

12. In order to strengthen the effectiveness and credibility of the Treaty and put an end to the discriminatory implementation of article IV, the 2020 Review Conference should adopt concrete recommendations that ensure full respect for the inalienable rights of all States parties, particularly developing countries, under that article, including the right to have full access to nuclear materials, technology, equipment and scientific and technological information for peaceful purposes. As stipulated in the Treaty, none of its provisions shall be interpreted as affecting the inalienable rights of States parties under article IV. For its part, the Islamic Republic of Iran is determined to pursue all areas of nuclear technology, including the development of a full national nuclear fuel cycle for peaceful purposes.

13. In this context, the full realization of the right of developing States parties to participate in the fullest possible exchange of equipment, materials and scientific and technological information for the peaceful uses of nuclear energy should be ensured. To that end, among other things, the developed States parties to the Treaty should fully comply with their explicit legal obligation under article IV to facilitate participation of the developing States parties in the fullest possible exchange of equipment, materials and scientific and technological information for the peaceful uses of nuclear energy. In addition, as stipulated in article IV, they shall also cooperate in contributing alone, or together with other States or international organizations, to the further development of applications of nuclear energy for peaceful purposes, especially in the territories of non-nuclear-weapon States parties to the Treaty, with due consideration for the needs of the developing areas of the world.

14. Likewise, as stipulated in the Treaty, the safeguards required under article III shall be implemented in a manner designed to comply with article IV of the Treaty and to avoid hampering the economic or technological development of the parties or international cooperation in the field of peaceful nuclear activities, including the international exchange of nuclear materials and equipment for the processing, use or production of nuclear materials for peaceful purposes. It should be reiterated in this context that a diverse portfolio of energy sources is needed to allow access to sustainable energy and electricity resources in all regions of the world and that States parties may pursue different ways to achieve their energy security and climate-protection goals, in line with their national requirements and in exercising their sovereign rights to define their national energy and fuel-cycle policies.

15. As also reaffirmed by the Non-Aligned Movement, the right of States to define their national energy and fuel-cycle policies "includes an inalienable right to develop, for peaceful purposes, a full national nuclear fuel cycle" (NPT/CONF.2015/WP.5, para. 9). Therefore, any proposal to limit or restrict the inalienable right of States parties to develop a full national nuclear fuel cycle would clearly be in contradiction with article IV of the Treaty. The 2020 Review Conference is expected to address this issue and decide that any explicit or implicit proposal, decision or act, by any State or organization, that is intended to hamper, directly or indirectly, the nuclear policies of States parties to develop a full national nuclear fuel cycle for peaceful purposes is in clear violation of article IV and shall therefore be avoided.

16. It should also be underlined in this regard that, while the primary responsibility for nuclear safety and security rests with individual States, any measure and initiative aimed at strengthening nuclear safety and security must not be used as a pretext or leverage to violate, deny or restrict, directly or indirectly, any element of the inalienable right of States parties to the peaceful uses of nuclear energy. Nuclear security is a global concern and, accordingly, any multilateral initiative, guideline or rule in nuclear security should be pursued within the IAEA framework through a gradual, inclusive and transparent process that incorporates the views of all IAEA member States. Iran, in particular, stresses the importance of promoting non-discriminatory cooperation in the field of nuclear safety as a necessary element for exercising the inherent right to use nuclear energy for peaceful purposes.

17. While there exists a mechanism for verifying the fulfilment of safeguards obligations of States parties under the Treaty, with a view to preventing the diversion of nuclear energy from peaceful uses to nuclear weapons or other nuclear explosive devices, there is no mechanism to verify and ensure that safeguards, as stipulated in the Treaty, are implemented in a manner that avoids "hampering the economic or technological development of the parties or international cooperation in the field of peaceful nuclear activities, including the international exchange of nuclear material and equipment for the processing, use or production of nuclear that material for peaceful purposes". Taking into account that fact, the tendency of certain States to impose restrictions on the exercise of the inherent rights of developing States parties under article IV and the refusal of the developed States parties to fulfil their obligations under that article, which in practice results in violating the rights of developing States parties under article IV and, thus, in hampering their economic or technological development, the 2020 Review Conference is urged to examine this issue and take specific decisions to ensure the full and non-discriminatory implementation of the Treaty with regard to the peaceful uses of nuclear energy.